

1 ANDREW R. STILWELL, ESQ. (CBN: 229469)
2 MICHAEL H. WEINER, ESQ. (CBN: 269079)
3 STILWELL & ASSOCIATES, INC.
4 4669 Murphy Canyon Road, Suite 200
5 San Diego, California 92123
6 Telephone: (858) 715-3900
7 Facsimile: (858) 715-3977

8 Attorneys for MARK WALKER, Defendant

9
10 **UNITED STATES DISTRICT COURT**
11 **IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
12 **SAN DIEGO – CRIMINAL DIVISION**

13 UNITED STATES OF AMERICA,
14
15 Plaintiff,

16 vs.

17 DAVID BERKENFIELD, KIRSTEN
18 BERKENFIELD, KEREN BRITO,
19 MICHAEL CALDWELL, JOHN
20 CASTELLANOS, FLORA ESPINO,
21 MARK GOLDSTEIN, DAWN
22 GONZALEZ, MATTHEW HOLDIN,
23 KARI LOWMAN, TYLER LOWMAN,
24 MATTHEW McINTYRE, DAVID
25 MORINEAU, VINCINA MORINEAU,
26 CLARISA RODRIGUEZ, JESUS
27 RODRIGUEZ (aka JESSE
28 RODRIGUEZ), AL SIAPNO,
MATTHEW SUPPLE, APRIL
STEWART, RICARDO TREJO, LISA
WALKER, MARK WALKER,
PATRICK WALSH, TOMOKO
WALSH, and BONNIE WASSERMAN,

Defendant(s).

Case No. 11-CR-003486-JAH
Hon. John A. Houston
Judge Nita L. Stormes, Magistrate

Indictment Filed: August 9, 2011
Trial Date: None Set

**JOINT MOTION TO AUGMENT
ORDER MODIFYING THE
CONDITIONS OF RELEASE TO
RELEASE AND RENEW U.S.
PASSPORT AND PERMIT
TRAVEL**

///

1 Defendant, **MARK WALKER** by and through his attorneys, **ANDREW**
 2 **STILWELL**, and **MICHAEL H. WEINER**, pursuant to [18 U.S.C. § 3142\(c\)](#), as well as the
 3 Due Process Clause of the Fifth Amendment to the Constitution of the United States,
 4 respectfully moves this Court for clarification of the order modifying the conditions of
 5 his **release**, thereby permitting Defendant to: 1) have his **passport released**, 2) renew his
 6 passport, and 3) travel to Alberta, Canada, and El Toro, Dominican Republic.

7 In support of this motion, Defendant, through counsel, shows to the Court the
 8 following:

9 1. On August 9, 2011, Defendant was charged by Indictment with conspiracy to
 10 commit wire fraud, in violation of 18 U.S.C. § 371 and two counts of wire fraud in violation
 11 of [18 U.S.C. § 1343](#).

12 2. On August 18, 2011, an arraignment notice was issued, and Defendant's case
 13 was set before Magistrate for arraignment and to enter an initial plea on August 25, 2012.

14 3. On August 25, 2011, Defendant voluntarily appeared before Judge Stormes and
 15 entered a plea of not guilty. Judge Stormes set Defendant's conditions of **release**, which
 16 included no travel outside of the United States and the surrendering of his non-government
 17 passport. The Order Setting Conditions of **Release**, hereinafter referred to as the
 18 "**Release Order**," is attached hereto as Exhibit A.

19 4. Two conditions of the **Release Order** are at issue in this motion. First,
 20 the **Release Order** specified that Defendant must surrender his **passport** and not be able to
 21 renew it. Second, the Defendant cannot travel internationally.

22 5. Since the entry of the **Release Order**, and for the pendency of this case,
 23 Defendant has appeared at all scheduled court appearances when required, and has followed all
 24 conditions of his **release**.

25 6. Defendant agrees to notify Pre-Trial Service of his travel dates and further
 26 agrees that he will not use his passport for travel outside of the United States other than for the
 27 two requested trips.
 28

1 7. On October 12, 2012, Michael Weiner, Esq. specially appearing on behalf of
2 Andrew Stilwell, Esq. made an oral motion seeking modification of the Conditions of Release
3 relating to Defendant Walker to allow him to have his passport back, renew the passport, and
4 to travel outside the United States.

5 8. Judge Houston, granted this oral motion and ordered that Defendant Walker
6 may have his passport back, and travel outside of the United States.

7 9. The order, however; did not specify that Defendant Walker may also renew his
8 passport.

9 10. Defendant now seeks clarification of the October 12, 2012 order and requests
10 leave of the Court to allow renewal of the passport certification and permit the travel that has
11 been approved by Judge Houston.

12 Dated: October 31, 2012

13 /s/ Andrew R. Stilwell

14 ANDREW R. STILWELL, ESQ.

15 Attorney for Defendant, MARK WALKER

16
17 /s/ Jerry A. Behnke

18 JERRY A. BEHNKE, ESQ. (by consent)

19 Assistant United States Attorney
20
21
22
23
24
25
26
27
28